



Have You Been Selected? Contractors' 7-Step Plan if You're on OFCCP's 2023 Audit Scheduling List

Insights

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The Office of Federal Contract Compliance Programs (OFCCP) just released its 2023 Corporate Scheduling Announcement List (CSAL), which notifies 500 supply and service establishments that they have been selected for an upcoming audit. Federal contractors and subcontractors should immediately examine the list, which was just released last Friday, to determine if one or more of their establishments have been identified for such an audit. This Insight explains how to find out if you've been selected, summarizes the scheduling methodology in more detail so you can learn why you were chosen, and provides a seven-step plan for responding.

How Can We Find Out If We've Been Selected for Audit?

You should immediately review the [2023 Corporate Scheduling Announcement List \(CSAL\)](#) by [clicking on this link](#) and choosing "FY 2023 CSAL Supply & Service Scheduling List." Doing so will generate an Excel document as a downloadable file, which contains the actual list.

What Should Contractors on the FY2023 List Do?

Contractors who are on the 2023 CSAL list should consider following this seven-point plan:

1. The OFCCP has produced a set of [Frequently Asked Questions](#) and other information to assist affected contractors. Your first step is reviewing this information to make sure you understand the process.
2. Ensure that your affirmative action programs and other regulatorily required documents and postings are prepared for a compliance review.
3. Notify your EEO coordinators, as well as your top U.S. ranking officials, to be on the lookout for a [Scheduling Letter and Itemized Listing](#) from OFCCP. The letters may arrive via U.S. mail or via email.
4. If you have more than one establishment selected for audit, you should anticipate that your audits may occur simultaneously and will likely be handled by the same regional office, regardless of the geographic location of the establishments selected for audit. Prepare accordingly.
5. Understand that receiving the Scheduling Letter begins the timeline for the compliance reviews. Once the Scheduling Letter is received, you will have the standard 30 days to submit the items listed in the Scheduling Letter. This includes your affirmative action plans as well as items that

listed in the Scheduling Letter. This includes your affirmative action plans as well as items that may be requested in an Itemized Listing, including documentation of your outreach efforts, compensation information, and more.

6. Be mindful that the OFCCP is no longer delaying scheduling contractors for 45 days after it issues the CSAL as it had previously done in the past. Thus, if you are on the CSAL list, you should expect that you may receive Scheduling Letters at any point.
7. Finally, and most importantly, you should consult with your legal counsel to prepare your audit responses.

What Was the OFCCP's Methodology for Selecting Contractors?

The pool of contractors and subcontractors considered for audit is primarily based on contractors who did not complete the certification process OFCCP implemented last year.

However, the OFCCP has published its full [methodology](#) online, explaining that it applied the following criteria in selecting establishments for the CSAL:

- OFCCP accessed the USAspending database and downloaded a list of federal contracts valued at \$50,000 or more. OFCCP removed contracts awarded to federal, state, local, municipal, tribal, city, and foreign governments, school districts, universities and colleges, and construction companies from the list.
- The OFCCP then matched company names and addresses against the 2020 EEO-1 filings to identify establishments with 200 employees or more to be included in the pool of federal contractors and prime subcontractors to be considered for audit selection.
- Contractors and subcontractors that certified in the OFCCP Contractor Portal as of December 1, 2022, were then removed from the pool of contractors and subcontractors considered for audit selection.
- The OFCCP also cross-referenced all eligible establishments and functional units with the agency's compliance management system to remove those that were currently: under review; in a monitoring period pursuant to a conciliation agreement; within the exemption period following a closed review; or pending scheduling for review from a prior scheduling list. It also removed those that have an active separate facilities waiver.
- To finalize reviews, the OFCCP selected the establishments with the highest employee counts in each district office. The OFCCP did not include more than four establishments of any parent company reviews per region.
- For FAAP reviews, the OFCCP selected the four functional units with the highest employee count in each region.
- District office codes and regions were assigned to each establishment and functional unit based on the postal address. Compliance evaluations were distributed across regions and their district offices based on available staff, measured in full-time equivalents. Where a parent company had

two or more establishments on the scheduling list, the OFCCP reassigned those compliance reviews to the same region so that both the agency and the contractor can engage in those reviews in a coordinated manner.

What Else Do You Need to Know?

Notably, the CSAL list also identifies the several types of audits that federal contractors and subcontractors will be subject upon receipt of their official audit notice:

- Full Compliance Review (Establishment Review);
- Corporate Management Compliance Evaluation (CMCE); or
- Functional Affirmative Action Program (FAAP) Review.

You can learn more about each type of review on OFCCP's website or by speaking with your Fisher Phillips attorney.

Importantly, **federal contractors not identified on the CSAL list may be selected for an audit in certain circumstances**. This could happen through a complaint, contract award notice, or as a result of a conciliation agreement or consent decree progress report monitoring.

Conclusion

Fisher Phillips will continue to monitor any further developments in this area as they occur, so you should ensure you are subscribed to [Fisher Phillips' Insight system](#) to gather the most up-to-date information. If you have any questions about how this development impacts your organization, please consult your Fisher Phillips attorney, the authors of this Insight, or a member of Fisher Phillips' [Affirmative Action and Federal Contract Compliance Practice Group](#).

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